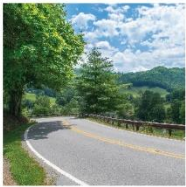




## **NORTH CAROLINA**

Department of Transportation



# **Letting Requirements for Federal, State & Local Projects, Agreements & Rail Coordination**

*Moderator: Jimmy L. Travis, PE*

*March 27, 2019*



## **NORTH CAROLINA**

Department of Transportation



# ***Federal-aid Project Development Process***

*Brad Hibbs, PE*

*March 27, 2019*

# Discussion Points

- **The Federal-aid Project Development Process:**
  - Remembering your Federal-aid basics
- **Stewardship and Oversight Agreement**
  - What it means for you
- **Risk Based Oversight**
  - How we know

# Sharing FAHP Responsibilities With the States

- State DOT assumption of program and project responsibilities is documented in the S&O Agreement
- MAP-21 impacts to S&O Agreements include
  - Removed provision prohibiting State oversight of projects exceeding \$1M
  - Emphasizes a risk-based approach to oversight

# FHWA- NC/NCDOT Agreement Updated 2015

## STEWARDSHIP AND OVERSIGHT AGREEMENT ON PROJECT ASSUMPTION AND PROGRAM OVERSIGHT BY AND BETWEEN

FEDERAL HIGHWAY ADMINISTRATION, NORTH CAROLINA DIVISION  
AND THE  
NORTH CAROLINA DEPARTMENT OF TRANSPORTATION  
(Supersedes June 2, 2015 Agreement)

### SECTION I. BACKGROUND AND INTRODUCTION

The Federal-aid Highway Program (FAHP) is a federally-assisted program of State-selected projects. The Federal Highway Administration (FHWA) and the State Departments of Transportation have long worked as partners to deliver the FAHP in accordance with Federal requirements. In enacting 23 U.S.C. 106(c) as amended, Congress recognized the need to give the States more authority to carry out project responsibilities traditionally handled by FHWA. Congress also recognized the importance of a risk-based approach to FHWA oversight of the FAHP, establishing requirements in 23 U.S.C. 106(g). This Stewardship and Oversight (S&O) Agreement sets forth the agreement between the FHWA and the North Carolina Department of Transportation (State DOT) on the roles and responsibilities of the FHWA and the State DOT with respect to Title 23 project approvals and related responsibilities, and FAHP oversight activities.

The scope of FHWA responsibilities, and the legal authority for State DOT assumption of FHWA responsibilities, developed over time. The U.S. Secretary of Transportation delegated responsibility to the Administrator of the FHWA for the FAHP under Title 23 of the United States Code, and associated laws. (49 CFR 1.84 and 1.85) The following legislation further outlines FHWA's responsibilities:

- Intermodal Surface Transportation Efficiency Act (ISTEA) of 1991;
- Transportation Equity Act for the 21st Century (TEA-21) of 1998;
- Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA-LU) of 2005; and
- Moving Ahead for Progress in the 21st Century Act (MAP-21) of 2012 (P.L. 112-141).

The FHWA may not assign or delegate its decision-making authority to a State Department of Transportation, unless authorized by law. Section 106 of Title 23, United States Code (Section 106), authorizes the State to assume specific project approvals. For projects that receive funding under Title 23, U.S.C., and are on the National Highway System (NHS) including projects on the Interstate System, the State may assume the responsibilities of the Secretary of the U.S. Department of Transportation under Title 23 for design, plans, specifications, estimates, contract awards, and inspections with respect to the projects unless the Secretary determines that the assumption is not appropriate. (23 U.S.C. 106(c)(1)) For projects under Title 23, U.S.C. that are not on the NHS, the State shall assume the responsibilities for design, plans, specifications,

# **FHWA Risk Based Oversight**

## **1. Compliance Assessment Program**

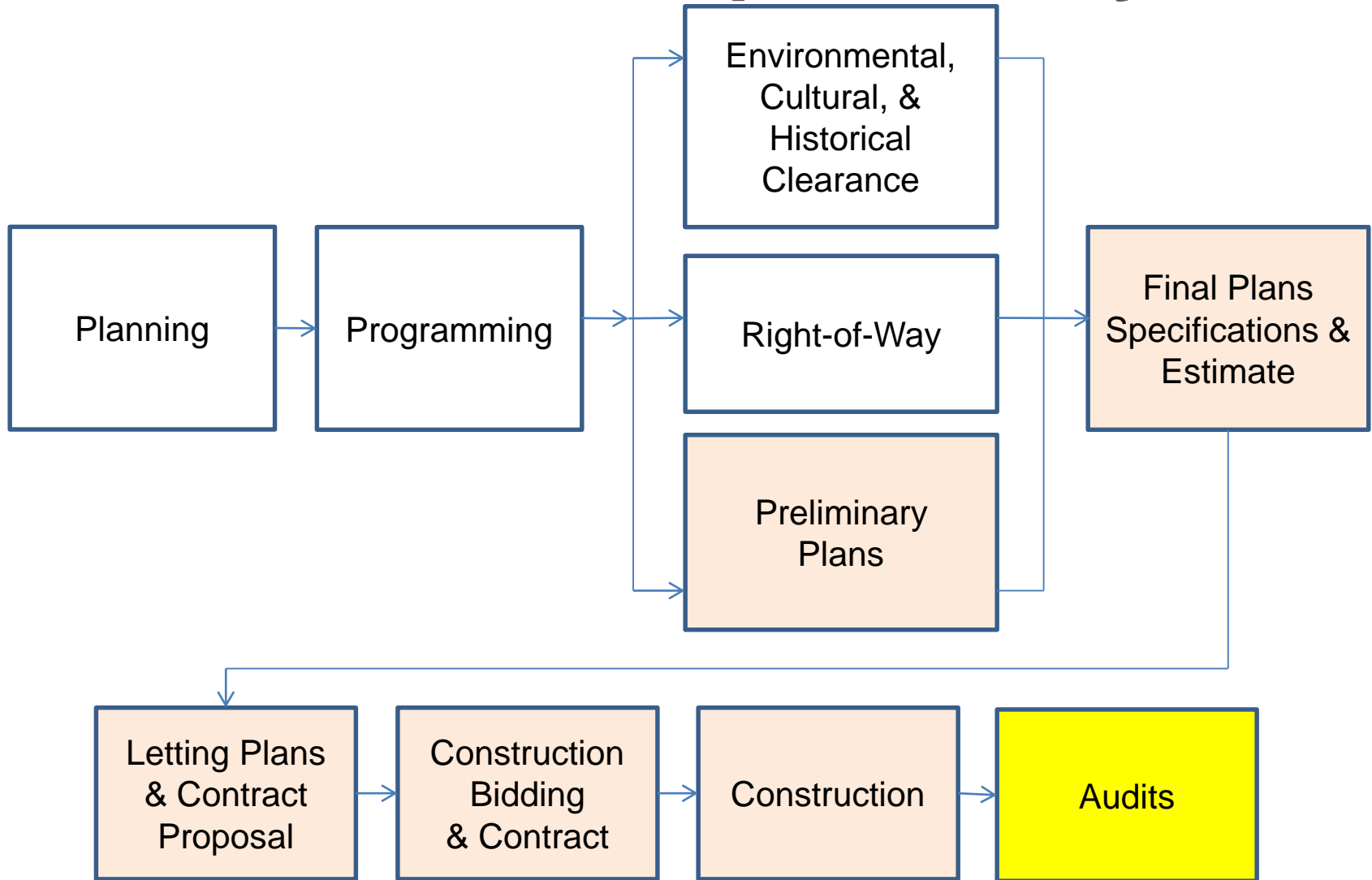
## **2. Projects of Division Interest**

- Major Projects, APD, TIGER, FHWA-NC Selected

## **3. Special Reviews**

- Local Projects
- Rail Projects
- Evaluate response to NC Internal Audits
- NCDOT Federal-aid Project Development Process

# Federal-aid Project Delegation: NCDOT Responsibility





# Plans, Specifications, Estimates

- What does the law require?

## Plans and Specifications

Location

Design features

Construction requirements

With sufficient detail to:

- Facilitate the construction, the contract control and the estimation of construction costs of the project

## Estimate

Anticipated cost of the project

With sufficient detail to:

- Provide an initial prediction of the financial obligations to be incurred by the State and FHWA
- Permit an effective review and comparison of the bids received.



# Allowable Contracting Methods

- Traditional design-bid-build, low bid contracts
- Alternative contracting (operational methods)
  - Cost-plus-time bidding (A+B)
  - Lane rental
  - Design-build contracting
  - Additive alternate bidding
  - Warranty clauses
  - Construction Manager/General Contractor (CM/GC)
  - Alternate pavement type bidding using life-cycle cost adjustment factors

# Allowable Contracting Methods

*(cont.)*

- Alternative contracting (experimental methods)
  - Best value
  - **ID/IQ [Permitted by FHWA Order N5060.2]**
  - No excuse incentive/bonus
  - Lump sum bidding

# Buy America vs. Buy American<sup>n</sup>

Requirement	Statute/ Regulation	Applicability	Coverage	Threshold
Buy America	23 USC 313 23 CFR 635.410	All projects funded under Title 23	Manufacturing process for steel and iron materials, application of a coating	None NAFTA and other international trade agreements have no effect
Buy American <sup>n</sup>	41 USC 10a-10d 48 CFR 25	Direct Federal Procurement	All construction materials with exceptions	Thresholds identified in NAFTA and other trade agreements

# Other Bid Package Requirements

- Disadvantaged Business Enterprise (DBE)
- Right-of-way (ROW) clearances, including Utility and Railroad coordination
- Form FHWA-1273
- On-the-job training (OJT)
- Non-collusion statements

# Obtaining FHWA Approval to Advertise

- PS&E approved
- ROW clearances complete or proper coordination in contract
- Public hearing and environmental processes complete (NEPA)
- Other agency reviews complete
- Funding deemed adequate

# Bid Analysis and Award

- When analyzing bids, what four criteria should you use?
  - Is the bid responsive?
  - Is the bidder responsible?
  - How do bids compare to the Engineer's Estimate?
  - Was there adequate competition?

# Responsible Charge

- STA and LPA must provide a full-time employee to be in responsible charge of the project
  - STA: The person in responsible charge must be a full-time State engineer
  - LPA: The person in responsible charge must be a full-time employee of the LPA





## **WHAT IS YOUR DOCUMENTED PROCESS FOR FEDERAL-AID PROJECTS?**

- The project went through the STIP process
- The project scope and description is eligible for federal funding selected
- Record of the NEPA action selected
- ROW acquired according to the Uniform Act
- A complete PS&E package certified prior to FHWA authorization and advertisement
- All applicable permits obtained prior to FHWA Authorization
- Advertisement, bid review, GFE, and award process documented



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# ***Raleigh Project Letting***

*Ron Davenport – State Contract Officer*

*March 27, 2019*

# Centrally Let Projects

- Importance of the **timeline** for Centrally Let federal-aid and state funded projects
- Contract Standards and Development's role in Locally Governed Projects

# Old Days / Today

- OLD DAYS
  - *Much more flexibility in moving projects*
- TODAY
  - *The emphasis is on Project Delivery, so keeping projects in their Let month becomes much more critical*

# Project Turn-ins

- Data for last 2 years, general downward trend for receiving projects on time.
- Only 22% of all projects were submitted on time and complete.
- That means 78% were turned in late.
- When turned in late, 46% were still incomplete.

# Plan Review Corrections

- Data for last 2 years shows increase in plan review iterations per project.
- Plans/Estimate reviewed, comments/revisions provided to designer.
- Returned plans do not address all comments/revisions.
- 93% returned 2 times, 71% 3 times.

# CSDU Timeline to Work Projects

- 14 wks. – Project turn-in to Let date
- 10 wks. – until Advertisement date
- 9 wks. – turn in to Document Mgmt.
- Nine weeks to process through 3 sections
  - Plan Checking – plan review of all unit disciplines
  - Contract Proposals – prepares contract bid proposal
  - Final Estimating – prepares final cost estimates
- Work is not done simultaneously



# Other Important Pieces

- Permits
  - Municipal/Railroad/Utility Agreements
  - Utilities By Others
  - Delays of Entry
- 
- *Why are these important?*

# What's Affected Downstream?

- Review time for CSDU, quality
- Contract Time Committee (4 wks b4 ad)
- Bid Advertisement Meeting (3 wks)
  - Federal Aid – FHWA request exception
  - State – Approval of the Chief Engineer
- Construction Authorization (2 wks)
- DBE Goal Setting Committee (2 wks)

# What Can We Improve?

- Awareness of the Schedule/Deliverables
- Assume the project can't be moved
- Turn in a complete PS&E package
- Make quick turn-arounds on plan comments
- Make the Contract Officer aware of issues early on to possibly help mitigate
- CSDU Website—guidance and who to contact for answers

# CSDU – LGA Projects

- Bid Proposal Review

- For LGA projects bids > \$2.5M, SCO must concur so CSDU must have approved bid proposal (send bid proposals if EE is greater than \$2M)
- For projects bid < \$2.5M, CSDU will continue to do courtesy review but Divisions may concur.
- Refer to LGA web page for requirements  
<https://connect.ncdot.gov/municipalities/Pages/Bid-Proposals-for-LGA.aspx>
- Divisions review and comment on the plans

# Contact List

- Joel Howerton – 919-707-6950
  - *Plans, Roadway Standard Drawings*
- Jeff Renn – 919-707-6910
  - *Special Provisions, Unit Provisions*
- John Weathersbee – 919-707-6930
  - *Item Costs*

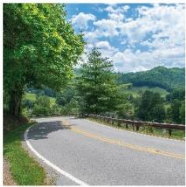
# Contact List

- Ken Kennedy – 919-707-6919
  - *Traffic Management Plans, Contract Times, Liquidated Damages*
- Mike Gwyn – 919-707-6940
  - *Plan, Proposal and Contract File Mgmt, Plan and Proposal Duplication and Orders*
- Ron Davenport – 919-707-6901
  - *The 100 section of Spec Book, Contract Advertisement and Execution, GS-136*



## **NORTH CAROLINA**

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# ***AGREEMENTS AND LOCAL PROJECTS***

*Marta Matthews*

*March 27, 2019*



# PRESENTATION TOPICS

- LOCAL PROJECTS
- AGREEMENTS
- NEW AGREEMENTS SYSTEM

# LOCAL PROJECTS

## What is a Local Project?

*A local project is one in which the local government is responsible for delivering the project and the Department is responsible for providing oversight and ensuring that costs incurred meet all applicable requirements.*



# LOCAL PROJECTS

Local Projects have **SAME** requirements as DOT Projects:

- Programmed in the STIP
- Environmental Document (usually a CE)
- ROW/Utility/RR Certification
- Plans, Specifications, and Estimate (PS&E) must include all appropriate federal provisions
- Let to the lowest responsible, responsive bidder
- Construction contract administered to DOT Standards

# LOCAL PROJECTS

Local Projects have some **DIFFERENT** requirements:

- Must have an Accounts Payable (AP) Agreement executed
- LGAs follow GS 143 for letting of contracts, not GS 136 (DOT)
- Concurrence with contracts over \$2.5 million must come from Contract Standards
- DOT is reviewing and approving work, but is not performing the work

# TAP / CMAQ RESCISSION

- Approximately \$57 million TAP funds and \$59 million in CMAQ funds are subject to rescission if they are not authorized prior to September 30, 2019.
- Department wants to preserve as much funding as possible and is working on possible strategies:
  - STIP Unit is working with MPOs that have TAP-DA (Direct Attributable) funds to identify projects that can utilize these funds.
  - Accelerate projects currently programmed in FY20 to FY19
  - Engage partners and stress the importance of this effort

# LOCAL PROJECTS

## Requirements for PE Authorization from FHWA

- Accounts Payable (AP) Agreement executed

## Requirements for ROW Authorization from FHWA

- Accounts Payable (AP) Agreement executed
- Environmental Document (usually a CE)
- ROW Plans
- Estimate of ROW Costs

## Requirements for Construction Authorization from FHWA

- Accounts Payable (AP) Agreement executed
- Environmental Document
- ROW/Utility/RR Certification
- Final Plans, Specifications, and Estimate (PS&E)

# **AGREEMENTS on TIP Projects**



- WHAT are Agreements on TIP Projects?
- WHY are they needed?
- WHEN are they needed?
- HOW are they created?
- WHO has responsibilities?



# WHAT are Agreements on TIP Projects?

- Accounts Receivable (AR) Agreements executed between the Department and a Local Government (Municipality or County), or a Developer
- Document extra work that the Other Entity has requested the Department include in the construction contract
  - Pedestrian/bicycle improvements
  - Utility relocations
  - Enhancements/betterments/Developer improvements

# WHY is an Agreement Needed?

- Documents the work that the other entity has requested
- Identifies maintenance responsibilities
- Sets out payment terms and cost share
- Shows that the other party has committed the funds for the Department to construct improvements



# WHEN Should a TIP Agreement be Executed?

- Agreements should be fully executed (signed by all parties) prior to funding authorization
- Agreements generally take about 3 – 4 months from creation to full execution
- Don't wait until the last minute; be aware of changes on the let list



# HOW are TIP Agreements Created?

- Central Design/Central Let
  - LPMO staff monitors the let list and coordinates with the appropriate Project Manager to develop the Agreement.
  - LPMO sends agreement to the Other Party to obtain signature.
- Division Let and Division Design/Central Let
  - Division staff are responsible for requesting the agreement and sending to the Other Party to obtain signature.

**IMPORTANT** – this process will change once the new Agreements system is in place

# WHO has What Responsibilities?

- Agreement Requester (Division or Business Unit)
  - Provide information on scope of work
  - Obtain cost estimates and determine cost share (if any)
  - Obtain signatures from Other Party and provide final executed agreement to Other Party (Division Design or Division-let projects)
- LPMO
  - Finalize agreement and add to BOT Agenda
  - Obtain signature from Chief Engineer
  - Provide fully executed agreement back to Agreement Requester or Other Party.

# WHO has What Responsibilities?

## *(cont'd)*

- Other Party
  - Work with Department to identify additional work desired
  - Be prepared for financial commitment
  - Have agreement approved through local process (if applicable)

# Agreement Operating Policy

- Currently drafting an operating policy that will provide clearer guidance on the Department's authority to enter into agreements with other parties
- Will help explain standard requirements for Agreements
- Will also provide options to obtain approval for non-standard agreements



# NEW AGREEMENTS SYSTEM

- Accessed through the Enterprise Business Portal (EBS) and will be connected to SAP
- Will utilize a workflow with e-mail notifications
- More templates with clear guidance on which to select when
- And...

**Electronic Signatures!**

# NEW AGREEMENTS SYSTEM

- All agreement requests will come through the new system
- Enable seamless tracking of AR with SAP
- Training opportunities will be scheduled

# RESOURCES

## INSIDE NCDOT site

<https://inside.ncdot.gov/TransportationServices/Localprograms/Pages/default.aspx>

Or go to Inside.ncdot.gov and click on “Transportation Services”:



Under Resources, click on Local Programs Management:



[Local Programs](#)[Discussion](#)[Template Letters](#)[Guidance / Resources](#)[Webinars](#)[Calendar](#)[Mission & Goals](#)[Glossary & Acronyms](#)[Document Library](#)[Employee Contact  
Directory](#)[Your Feedback  
Make This Site Better](#)

## LOCAL PROGRAMS

The Local Programs Management Office (LPMO) works with Local Government Agencies (LGAs) to assist with project delivery of locally-administered projects, and provided guidance and resources to internal Department staff and outside agencies. LPMO is also responsible for the creation, review, approval and full execution of over 700 agreements annually that NCDOT enters into with outside agencies.



### WHAT IS A LOCALLY-ADMINISTERED PROJECT?

A Locally-Administered Projects is one where an agency outside of NCDOT (a municipality, county, or other state agency) delivers a project and is reimbursed with either state or Federal funding through NCDOT. The Local Government Agency (LGA) will enter into a professional services contract, prepare plans and specifications, purchase right of way and/or let a construction contract. NCDOT's responsibilities will be to review the work that the LGA produces to ensure it meets applicable state and Federal requirements.

If NCDOT delivers the project, both design and construction, then the project is not considered locally-administered.

In some cases, NCDOT and the LGA may work out a hybrid project delivery system, where the LGA (typically) provides design and ROW, and the Department may let. The Project Agreement will reflect the responsibilities and deliverables for each party.

### LOCAL PROGRAMS MANAGEMENT HANDBOOK

### WHAT IS AN AGREEMENT?

# Local Programs Management Office

Marta Matthews      [mtmatthews@ncdot.gov](mailto:mtmatthews@ncdot.gov)      919-707-6626

## Program Consultants (Local Projects)

Div 1-7	Sheila Gibbs	<a href="mailto:sgibbs@ncdot.gov">sgibbs@ncdot.gov</a>	919-707-662
Div 8-14	Madeline Rawley	<a href="mailto:mrawley@ncdot.gov">mrawley@ncdot.gov</a>	919-707-6630

## Contract Officers (Agreements)

Div 1-4; 10-14	Cathy Dragonette	<a href="mailto:cadragonette@ncdot.gov">cadragonette@ncdot.gov</a>	919-707-6624
Div 5-9	Lee Ann Billington	<a href="mailto:labillington@ncdot.gov">labillington@ncdot.gov</a>	919-707-6628





## **NORTH CAROLINA** Department of Transportation



# **Railroad Coordination**

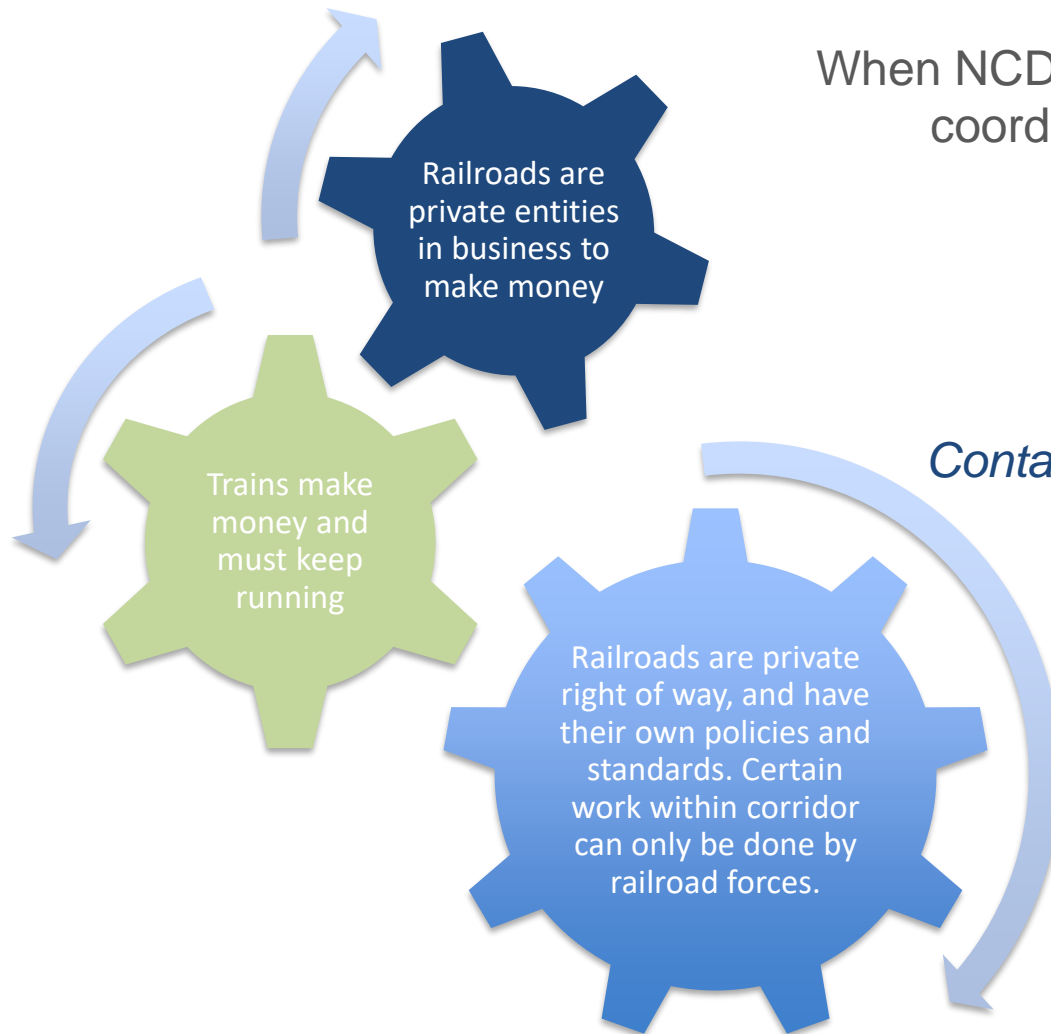
*James Bridges, PE, CPM*

*March 27, 2019*

# Point of Contact for Railroad Coordination

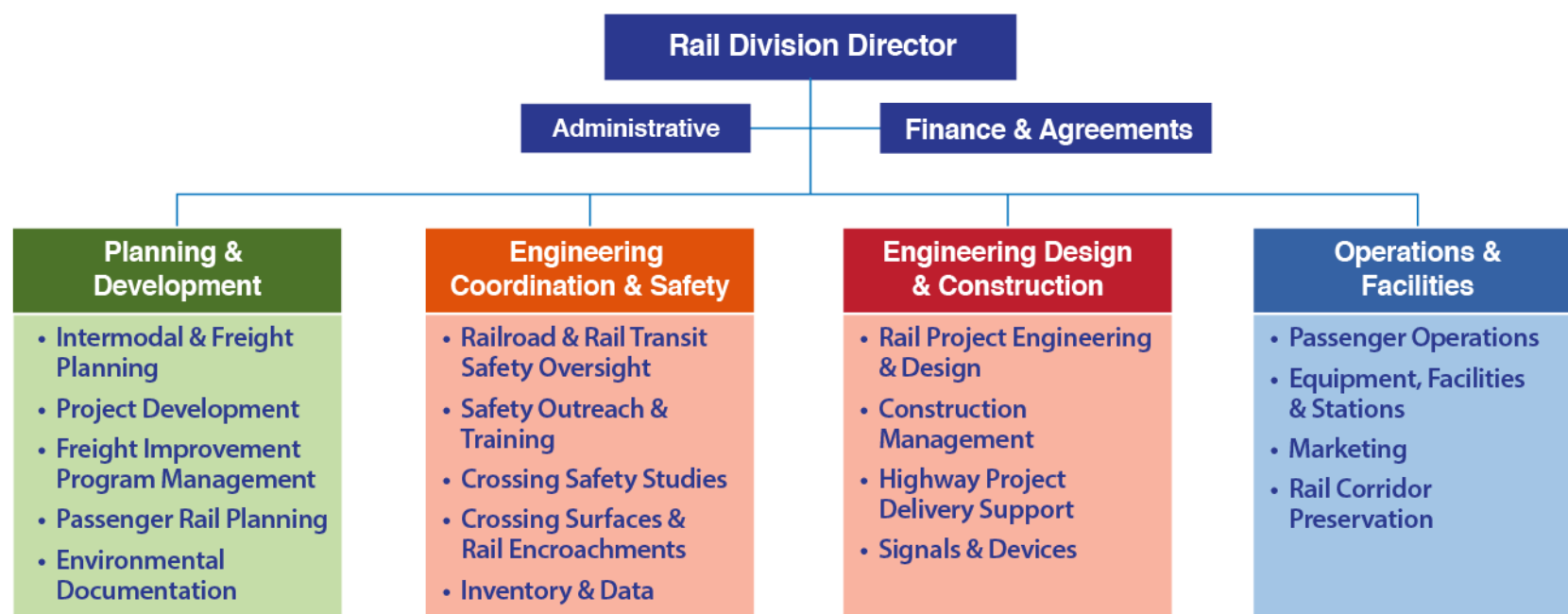
When NCDOT projects impact a railroad – coordination with railroad is required.

The Rail Division has single point(s) of contact.



*Contact should be made immediately upon the determination that a project involves railroad coordination.*

# Rail Division Organization





# Coordination Process

## Cradle to Grave

- If the project touches the railroad, contact the **Rail Division** to assist in soliciting comments from the railroads.
- Before the project is born, Rail Division should be involved (i.e. CTP, MTP, Feasibilities, etc).
- Throughout the project development years, Rail Division should be involved and receive any major submittals (ie. 15%, 25%, 65%, 90%, etc.).
- Through the projects golden years, Rail Division should be involved for construction, especially if there is any railroad track work.
- Coordination throughout the design cycle may involve many branches and personnel of the Rail Division.
  - **Planning and Development Branch**
    - Environmental / NEPA
  - **Engineering Coordination and Safety Group**
    - Crossing Closures
    - Crossing Surfaces and Encroachments
    - Safety
  - **Design and Construction**
    - Signals and Devices
    - Track Design
    - Construction Coordination



# Types of Projects needing Railroad Coordination

## AT-GRADE CROSSINGS

- Crossing/intersection layout
- Railroad warning devices
- Crossing closures
- Railroad crossing roadway surfaces
- Railroad crossing pavement markings
- Railroad crossing maintenance payments



# Types of Projects needing Railroad Coordination

## BRIDGES UNDER OR OVER THE RAILROAD





# Types of Projects needing Railroad Coordination

## RAILROAD REALIGNMENTS

- Realignments for parallel roadways
- Realignments for overhead or undergrade bridges



# Points of Contact

## **For Central-led projects**

State Railroad Coordination Engineer

James B. Harris, PE

[jbharris@ncdot.gov](mailto:jbharris@ncdot.gov)

919-707-4707

## **For Division-led projects**

Division Rail Coordination

Engineer

Brian E. Gackstetter, EI

[begackstetter@ncdot.gov](mailto:begackstetter@ncdot.gov)

919-707-4718



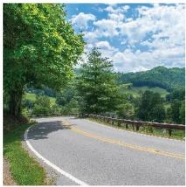
# Questions





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